

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Kevin Scott Karsjens, David  
Leroy Gamble, Jr., Kevin John  
DeVillion, Peter Gerard  
Lonergan, James Matthew  
Noyer, Sr., James John Rud,  
James Allen Barber, Craig  
Allen Bolte, Dennis Richard  
Steiner, Kaine Joseph Braun,  
Brian Christopher John  
Thuringer, Kenny S. Daywitt,  
and Bradley Wayne Foster,

Civ. No. 11-3659 (DWF/JJK)

Plaintiffs,

**ORDER**

v.

Lucinda Jesson, Dennis Benson,  
Kevin Moser, Tom Lundquist,  
Greg Carlson, and Ann  
Zimmerman, in their individual  
and official capacities,

Defendants.

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Over the past couple years, a number of patients civilly committed to the MSOP filed federal complaints against various state employees associated with the MSOP. The complaints allege violations of the patients' civil rights pursuant to 28 U.S.C. § 1983 and other statutes. On January 20, 2012, at the Court's request, the Gustafson Gluek PLLC filed Notices of Appearance in two cases, *Thompson v. Ludeman, et al.*, 11-CV-01704 (DWF/JJK), and *Karsjens, et al. v.*

*Minnesota Department of Human Services, et al.*, 11-CV-0359 (DWF/JSM). The *Karsjens* case was initially filed on December 21, 2011, as a proposed class action. The *Thompson* case was filed on June 27, 2011, and an Amended Complaint was filed on August 2, 2011. On January 11, 2012, Magistrate Judge Keyes issued a Report and Recommendation in that case in response to the Defendants' Motion to Dismiss. The Report and Recommendation found that some of the claims should survive the motion to dismiss.

On January 25, 2012, Chief Judge Davis issued an Order staying all of the *pro se* MSOP cases with the exception of the *Thompson* and *Karsjens* actions pending the resolution of the outstanding Motion for Class Certification filed in the *Karsjens* case. On February 6, 2012, Chief Judge Davis issued an Amended Order applying the stay to additional MSOP cases that were unintentionally omitted from his previous order.

On February 8, 2012, Judge Frank issued an Order staying the *Thompson* litigation until further notice, and setting a deadline for filing an Amended Complaint in the *Karsjens* action by February 29, 2012. The First Amended Complaint in the *Karsjens* case was filed on March 15, 2012.

On July 24, 2012, Judge Frank issued an Order (see Doc. No. 203), certifying *Karsjens* as a Rule 23(b)(2) class action. Judge Frank certified the (b)(2) class as: "All patients currently civilly committed in the Minnesota Sex Offender Program pursuant to Minn. Stat. § 253B."

Discovery in this matter was stayed on November 9, 2012 (see Doc. No. 275), and the stay was continued on January 24, 2013 (see Doc. No. 285), and March 22, 2013 (see Doc. No. 292), so that settlement talks would be explored. The stay on discovery expires on June 22, 2013.

On June 6, 2013, the Plaintiffs submitted a draft Settlement Agreement to Defendants and Defendants are scheduled to respond in writing to that draft Settlement Agreement by June 27, 2013.

Given the expiration of the stay of discovery and the current settlement posture, the Parties have stipulated to the following schedule.

### **ORDER**

Accordingly, **IT IS HEREBY ORDERED** that the following schedule shall be followed by the parties in this case:

#### **Pleadings**

1. Plaintiffs shall have until **August 8, 2013**, to file a Second Amended Complaint. Defendants shall be given a reasonable opportunity to meet and confer with Plaintiffs on the proposed Second Amended Complaint prior to filing;
2. Defendants shall have until **September 9, 2013**, to file a Motion to Dismiss;
3. Plaintiffs shall file their response to the Motion to Dismiss in accordance with the Local Rules;

4. Defendants shall file their reply to Plaintiffs response in accordance with the Local Rules.

**Discovery**

1. Plaintiffs shall serve discovery requests by **August 1, 2013**;
2. Defendants shall provide any objections to Plaintiffs' discovery requests by **September 2, 2013**;
3. The Parties shall meet and confer regarding any objections to discovery in accordance with the Local Rules;
4. No discovery responses shall be due until after the Court issues an order regarding Defendants' Motion to Dismiss.

**Other Motions**

1. Plaintiffs shall re-file their Motion for Payment of Fees and Costs by **August 22, 2013**;
2. Plaintiffs shall have until **August 22, 2013**, to file a Motion for Preliminary Injunctive Relief if they so choose.

Date: June 20, 2013

s/ Jeffrey J. Keyes  
JEFFREY J. KEYES  
United States Magistrate Judge